

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Josef Hoffman on 15 December 2010.

The application has been amended as follows:

As to Claim 1, the claim was amended as follows:

1. (Currently Amended) A method for assessing brain state ~~by comprising:~~
analysing mammalian brain electroencephalogram (EEG) recordings using an eighth order autoregressive and fifth order moving average discrete time equation;
~~further including the steps of~~
obtaining a z-domain equation by taking a z-transform for said eighth order autoregressive and fifth order moving average discrete time equation;
~~to obtain a z-domain equation;~~
determining, using a processing unit, poles and zeroes in the solution of the z-domain equation; and
plotting the poles onto the complex plane; and
displaying positions of the poles.

As to Claim 3, the claim was amended as follows:

In line 6, "(iv) approximating" was amended to --(iv) approximating, using a processing unit, --;

In line 10, "(vi) performing a z-transform" was amended to --(vi) performing a z-transform, using a processing unit, --; and

In line 19, "(ix) determining" was amended to --(ix) determining, using a processing unit, --.

As to Claim 4, the claim was amended as follows:

In line 6, "(iv) approximating" was amended to --(iv) approximating, using a processing unit, --;

In line 11, "(vi) performing a z-transform" was amended to -- (vi) performing a z-transform, using a processing unit, --; and

In line 20, "(ix) determining" was amended to -- (ix) determining, using a processing unit, --.

As to Claim 7, the claim was amended as follows:

In line 6, "(iv) approximating" was amended to -- (iv) approximating, using a processing unit, --;

In line 11, "(vi) performing a z-transform" was amended to -- (vi) performing a z-transform, using a processing unit, --; and

In line 20, "(ix) determining" was amended to -- (ix) determining, using a processing unit, --.

REASONS FOR ALLOWANCE

2. According to the Amendment, filed 04 November 2010, the status of the claims is as follows:

Claims 1, 3, 4, 7, 12, 16, 17, 24, and 26 are currently amended;

Claims 8 and 15 are as originally filed;

Claims 5, 6, 9-11, 13, and 14 are previously presented;

Claims 27-32 are new; and

Claims 2, 18-23, and 25 are cancelled.

3. The objections to claim 24 and 26 are WITHDRAWN in view of the Amendment, filed 04 November 2010.

4. The objection to claim 23 under 37 CFR 1.75 as being a substantial duplicate of claim 24 is WITHDRAWN in view of the Amendment, filed 04 November 2010.

5. The 35 U.S.C. 112, second paragraph, rejections to claims 3-17 are WITHDRAWN in view of the Amendment, filed 04 November 2010.

6. In an Interview, on 15 December 2010, Examiner and Applicant's Representative, Josef Hoffman, agreed on amending claims 1, 3, 4, and 7 by the Examiner's Amendment above to overcome the rejection of claims 1-17, 23, 24, and 26 under 35 U.S.C. 101 as being directed to non-statutory subject matter, see the prior Office Action, pp. 4-5, mailed 04 June 2010, and to place the Application in condition for allowance. See Interview Summary, mailed with the present Office Action.

7. In the prior Office Action, p. 7, mailed 04 June 2010, Claim 2 was indicated as allowable if rewritten in independent form including all of the limitations of the base claim, and if rewritten to overcome the rejection(s) under 35 U.S.C. 101 and 35 U.S.C. 112, second paragraph. Applicant amended claim 1 to include the allowable subject matter of claim 2. Thus, claim 1 and its dependent claim 24 is allowable for the reasons stated in the prior Office Action, and the rejections of claims 1 and 24 under 35 U.S.C. 102(b) as being anticipated by Smyth, U.S. Patent No. 5,687,291 A ("Smyth") is withdrawn.

8. In the prior Office Action, pp. 7-8, mailed 04 June 2010, Claims 3-17 was indicated as allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 101 and 35 U.S.C. 112, second paragraph. Thus, claims 3-17, along with claim 26, are allowable for the reasons stated in the prior Office Action. New claims 27-29, which depend on claim 3, are allowable due to their dependency.

9. Claims 1, 3-17, 24, and 26-32 are allowed.

10. The following is an examiner's statement of reasons for allowance:

As to Claims 30-32, because the subject matter of claims 30-32 are not distinct from the subject matter of claims 3, 4, and 7, claims 30-32 are allowable for the same reasons stated in the prior Office Action, pp. 7-8, mailed 04 June 2010 for claims 3, 4, and 7.

11. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to NAVIN NATNITHITHADHA whose telephone number is (571)272-4732. The examiner can normally be reached on Monday-Friday, 9:00 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor, II can be reached on (571) 272-4730. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Charles A. Marmor, II/
Supervisory Patent Examiner
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/N. N./
Patent Examiner, Art Unit 3735
12/15/2010